



DIRECTOR'S COLUMN

Henry L. Green

Board of Appeals

In a recent analysis of Bureau of Construction Codes records, we have noted many communities as having failed to establish a board of appeals for construction code issues. A board of appeals provides builders and other permit holders with recourse in matters relating to the administration and enforcement of codes. Conversely in virtually every community that has adopted zoning regulations, they have established that a board heard appeals of decisions of parties aggrieved by decisions in zoning matters. The State Construction Code Act provides that every community electing to administer and enforce a code or a series of codes must establish a construction board of appeals.

The State Construction Code Act provides certain provisions that are applicable state wide for all communities. These provisions are in effect irrespective of the code(s) adopted by the community. Sections 14 and 15 of the Act establish the requirements for the creation and operation of a board of appeals, the qualifications of board members, and permissible variances from the code(s) in effect.

Establishing a board of appeals is relatively simple. The members

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Elevator Division Recruitment

The Bureau of Construction Codes is seeking applications from qualified individuals for the position of Chief of the Elevator Division.

The position reports to Mark Sisco, Deputy Director of the Bureau of Construction Codes. The Bureau of Construction Codes' office is located in Okemos, Michigan.

Duties: It is the duty of the Chief of the Elevator Safety Division to manage the technical and administrative functions of the division to ensure the safe operation of the more than 16,000 elevators in the state of Michigan under jurisdiction of Act 227 of the Public Acts of 1967 and the licensing of 1,200 journey persons under the jurisdiction of Act 333 of the Public Acts of 1976. The program manager plans, organizes, directs, controls, and staffs the activities of the Elevator Division and is responsible for licensing of journeymen, contractors, and special interests.

Qualifications: This position requires 1 year of supervisory experience in the same specialized area of code inspection equivalent in responsibility to a Code Inspection Supervisor 14 in state service, OR two years of supervisory experience in the same specialized area of code inspection, equivalent in responsibility to a Code Inspection Supervisor 13 in state service, OR, four years of experience in the same specialized area of code inspection, equivalent in responsibility to an experienced (E11) level Code Inspector in state service.

This position also requires the possession of a certificate of competency as a general elevator inspector issued by the State of Michigan, Department of Consumer and Industry Services, Elevator Division.

Salary Range: \$42,365.52 - \$56,271.60

Individuals interested may request a Civil Service application from the bureau by calling 517/241-9337. Please send completed applications to Beth Aben, BCC Human Resources Liaison, P.O. Box 30254, Lansing, MI 48909, by **MARCH 10, 1998**.

Director's Column, continued:

must be qualified by experience or training to perform the duties of the board. This would include having knowledge of construction practices and matters that may come before the board. Not every member needs to be qualified in every discipline. If the board is to hear appeals from various codes, such as building, mechanical, electrical and plumbing, the board must include person(s) with expertise in each of these disciplines. If, on the other hand, the board is a single discipline board, it needs only to include persons with expertise in that particular discipline.

A board must consist of at least three members and not more than seven members. The local community may establish the terms of appointment or they may defer to the two-year term set forth in the Act. The chief elected official of the community makes appointments to the board. The community may also work with other communities to establish a board of appeals that hears matters with multiple communities.

An interested person or a person's agent may appeal the decision of a

code official to deny the issuance of a permit or any other decision relating to the administration and enforcement of the code(s) with the exception of barrier free design. All appeals must be presented in writing within 15 days of the decision to deny a permit in communities using the state codes. Time frames are not established for appeals of other related decisions.

The board of appeals must hold a public hearing on the merits and failings of the appeal and render a written decision not more than 30 days after submission of the appeal. Failure to hear an appeal within the time limits is a denial for purposes of seeking an appeal to the Construction Code Commission or to a court of competent jurisdiction.

Variances of the code may be granted to a substantive requirement of the code if the literal application of the code requirement would result in an exceptional, practical difficulty to the applicant and if the particular instance or variance does not substantially deviate from the performance of the code. Additionally, the variance must secure the health, safety and welfare of the citizens of the state. Finally, the variance cannot be so general or recurring that an amendment to the code is necessary.

The board may attach specific conditions when granting a variance. If an applicant fails to conform to the conditions, the variance is automatically invalidated, and the permit, license or certificate issued, because of the variance, is also invalidated. Variances are intended to provide the minimum relief necessary to alleviate the exceptional, practical difficulty cited in the appeal.

A board of appeals must conduct its business in an open meeting held according to Act No. 267, P.A. 1976, the Open Meetings Act. Notice of the time and place of the meeting must be posted in the principal office of the public body. The notice shall contain the name, address, and telephone number of the public official to whom the notice applies and where the official minutes of the public body are maintained and available for inspection.

In communities using the state code(s) a person aggrieved by a decision of a

local board of appeals may appeal that decision to the State Construction Code Commission. In these cases, the appeal must be filed within 10 days of the filing of the decision by the local board of appeals. In areas using a nationally recognized model code, the appeal of the decision of a local board of appeals must be filed with the court of appeals.

A construction board of appeals provides recourse to permit holders when a variance to the code is necessary, or when there is disagreement with a decision made by an inspector. When properly utilized, the appeals process can eliminate unnecessary delays in construction when a permit holder is faced with what appears to be an insurmountable obstacle, or a questioned decision by an inspector. The appeal process is not intended to provide relief in those instances where an applicant simply does not wish to comply with the code.

HANDLING ASBESTOS: YOUR RIGHTS & RESPONSIBILITIES WORKSHOP

The Michigan Department of Environmental Quality (MDEQ) and the Michigan Department of Consumer and Industry Services (CIS) are presenting a series of half-day, morning workshops that will explain asbestos regulations for renovation and demolition activities.

Speakers from the MDEQ and CIS will explain asbestos regulations. A consultant will discuss when to hire a consultant and what you should look for in a consultant. Also, a facility manager will describe how they implemented an asbestos program to comply with the requirements. Building owners, building managers, school facility managers, municipal governments, contractors (general, electrical, plumbing, mechanical, asbestos abatement), consultants, realtors of commercial buildings, architects, engineers, or anyone involved with building renovations or demolitions are urged to attend. Cost: \$30 includes continental breakfast and workshop materials. Please note that lunch will not be provided. Registration Contact: **MDEQ Environmental Assistance Division**, 1-800-662-9278. Information Contact: **Rebecca Smalldon**, Environmental Assistance Division, 517/335-2397.

<u>Date</u>	<u>Location</u>
3/17/98	Holiday Inn Gateway Centre, Flint, MI
3/19/98	Holiday Inn-Livonia West, Livonia, MI
3/24/98	Holiday Inn of Marquette, Marquette, MI
3/26/98	The President Inn, Grand Rapids, MI

BULLETIN

BUREAU OF
CONSTRUCTION
CODES

MICHIGAN DEPARTMENT OF
CONSUMER AND
INDUSTRY SERVICES

The BULLETIN is a quarterly publication of the Bureau of Construction Codes within the Michigan Department of Consumer & Industry Services. The BULLETIN is published for the information of the 46,000 plumbers, electricians, mechanical contractors, boiler and elevator licensees, plan reviewers, building officials, and inspector registrants throughout the state.

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Boiler Installation Clearances

The Boiler Act of 1965, P.A. 290, R408.4197 deals with the code requirement for boiler installation clearances. Rule 197 requires that all boilers located in other than a private residence be installed with a minimum of 24" clearance between the boiler, its controls, firing equipment and safety devices, and the building walls and partitions or other boilers or machinery. This creates the area needed to facilitate maintenance and inspection of the boiler.

A boiler installation with clearances less than 24" may be approved by the Chief Inspector after review of engineering drawings. The Boiler Division allows the use of simple drawings with dimensions listed to be faxed to the office for review. In any case this review must take place prior to the installation of the boiler.

The fax number for the Boiler Division is 517/241-9308.

BULLETIN BULLETIN BULLETIN

I'm sure those of you who receive duplicate copies of the Bulletin have asked yourselves and sometimes us why this occurs. Thank you to those of you who care enough to bring this to our attention. Unfortunately, the bureau is unable to prevent this from happening. Individuals who appear on different mailing lists within the bureau will continue to receive duplicate copies of the Bulletin. As an example, an individual who is both a licensee and a registered inspector will receive more than 1 copy. Individuals who are licensed under more than 1 trade such as a mechanical contractor and a master or journey plumber will also receive duplicate copies. Unfortunately, without manually reviewing thousands of labels, we are unable to prevent this from occurring. Please feel free to pass your extra copy along to someone who may be interested in bureau activities.

MEETING	DATE	TIME	PLACE
Electrical Administrative Board	Feb 20	9:00 a.m.	Okemos-Conf. Room 1
State Plumbing Board	Mar 3	10:00 a.m.	Okemos-Conf. Room 2
Board of Boiler Rules	Mar 10	9:30 a.m.	Okemos-Conf. Room 1
Board of Mechanical Rules	Mar 11	9:00 a.m.	Okemos-Conf. Room 3
Barrier Free Design Board	Mar 13	9:30 a.m.	Okemos-Conf. Room 1
Construction Code Comm.	Mar 18	9:30 a.m.	Okemos-Conf. Room 3
State Plumbing Board	Apr 15	10:00 a.m.	Okemos-Conf. Room 2
Electrical Administrative Board	Apr 17	9:00 a.m.	Okemos-Conf. Room 1
Barrier Free Design Board	May 8	9:30 a.m.	Okemos-Conf. Room 1
Board of Mechanical Rules	May 13	9:00 a.m.	Okemos-Conf. Room 3
Construction Code Comm.	May 20	9:30 a.m.	Okemos-Conf. Room 3

Okemos = 2501 Woodlake Circle, Okemos, MI

License Exam Schedule

EXAM	DATE	PLACE	DEADLINE
Elevator Journey	Apr 15	Okemos	Mar 27
Electrical Exam	May 20	Escanaba	Apr 22
Plumbing Exam	Jun 3	East Lansing	May 15
Boiler National Board Exam	Jun 3	Okemos	May 4
Boiler Installer Exam	Jun 4	Okemos	May 4
Boiler Repairer Exam	Jun 4	Okemos	May 4
Mechanical Exam	Jun 4	East Lansing	May 15
Electrical Exam	Jun 23/24	Lansing	May 26

Gas Piping Inspections and Testing

There is some confusion over whether or not gas piping has to be inspected or tested or both. There is also confusion over whether the test has to be witnessed by the mechanical official. Section M-815.0 of the 1993 Edition of the BOCA National Mechanical Code indicates that gas piping shall be tested in accordance with NIFPA 54. Part 4 of NIFPA 54 describes how the test is to be performed.

Neither the code nor NIFPA 54 part 4 indicate that the mechanical inspector has any responsibility to witness this test.

Although gas piping must be inspected the mechanical inspector does not have to witness the test. However, a mechanical code official may request verification that the gas piping has been tested.

Plumbing Code

Water Conservation Fixture Requirements

The Bureau's Plumbing Division has received several questions and comments related to 1.6 gallon per flushing cycle water closets.

The current State Plumbing Code (1990 edition) does not require the use of low flow water closets. However, governmental subdivisions enforcing the 1993 or newer national codes have language mandating the use of these fixtures.

The original requirements addressing the fixtures availability and use were established through Federal Legislation. The decrees regulated the manufacturing dates for residential and then commercial products.

Originally, plumbing installers expressed both positive and negative positions on the fixtures performance, drain line carry, and water use reduction. The vast majority of consumers are pleased with the water closets performance which of course is dependent upon the quality of the product purchased.

National and international plumbing codes continue to reflect federal legislation.

Complaint Investigation and Local Cooperation on the Rise

The Bureaus' 1997 fiscal year ended on September 30, 1997. The Complaint Section's year end report indicates the number of complaints received exceeded the 1996 figures by 13.5%. The number of complaints investigated and resolved was up 16.5%.

The number of complaints received and investigated by this agency has increased every year for the past five years. Projections for FY98 indicate this trend will continue.

As we enter the new fiscal year, the complaint section staff, which is now part of the Office of Local Government and Consumer Services, would like to thank all of you who assisted in these investigations. Your collective efforts and cooperation has made it possible to assist consumers and licensees through some very difficult situations.

Bureau Adopts a Family

Special Thanks to all those who participated in the Bureau of Construction Codes' Adopted Family Project.

With the pledges and gifts received, the Bureau of Construction Codes was successful in providing assistance to several families in the community.

One of the families wrote the following note to its "Special Santas":

"Nothing touches a mothers heart as much as a kindness to her child. I have a wonderful son. You helped make his Christmas great! I wish each of you could have seen his face when he opened his gifts from you on Christmas morning...Thank you so very much..."

Again, thanks to all of you. This year we hope to be able to provide assistance to families across the state.

Regulation of Telecommunication and Data Wiring Installations

Question: Have you ever wondered how to regulate telecommunication and data wiring within buildings?

Discussion: Regulation of telecommunication and data wiring installations has become a hot topic in recent times. For many years, prior to the deregulation of the major telecommunications utilities, inspectors had no jurisdiction because the wiring fell under the utility ownership. After the deregulation, the building portion of the wiring became the responsibility of private industry, thereby placing responsibility of regulation on building and electrical inspectors. Not much attention was given to this type of installation at first, however, as technology changed and more buildings utilized computer and data transmission wiring inspectors became concerned. The concern was due to large amounts of smoke producing products in walls and ceilings and the great amount of weight added to ceiling structures. (As a reference, look above a hospital corridor ceiling.)

When the electrical licensing law was amended in 1992 a licensing exemption for private telecommunication contractors was included. This opened the door for private contractors to look like and act like an utility, however, the work they perform does not have the same rules as the utility and falls under the responsibility of code officials. (Remember that licensing and code enforcement are two separate laws.)

Solution: Prior to occupancy of a building, inspectors are responsible for final approval of all portions of the building; structural, plumbing, mechanical and electrical. The final authority is the building official, who signs the Certificate of Occupancy. The electrical code prescribes requirements for installation of phone, data, and electrical wiring and the building official assumes the inspector is approving all of the systems when the final inspection is performed. The electrical inspector may withhold final approval of the "electrical wiring" pending code compliance of all systems in the electrical code. Some communities have established permit fees for telecommunication systems as a method of regulation. This would compare to the fire alarm system permit, which is separate from the electrical system.

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